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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/770,397 | 02/04/2004 | Peter Hofmann | 028987.52962US | 2742 |
| 23911 | 7590 | 09/19/2006 | EXAMINER | |
| CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300 | | | | WILHELM, TIMOTHY |
| ART UNIT | | PAPER NUMBER | | |
| | | 3616 | | |

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/770,397 | HOFMANN, PETER | |
| | Examiner | Art Unit | |
| | Timothy D. Wilhelm | 3616 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 7/18/2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-17 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 04 February 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. Examiner acknowledges receipt of amendment to claims filed by Applicant on 7/18/2006.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-6,16, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Haig (6,773,031). Haig discloses a side impact protective apparatus 10 for a motor vehicle occupant which is incorporated into a side wall 20 or door 22 of a motor vehicle comprising a pressure gas source 120 and a gas bag 14c which can be inflated by the pressure gas source 120, the gas bag 14c being folded together and arranged in a resting position along an upper edge of the side wall 20 behind an internal covering 30 and exiting upwardly upon unfolding in the region of a railing 26 in the side wall 20 through a slot formed between the upper edge 40 of the covering 30 and the side wall and extending upward along an interior of a side window 24d as impact protection for the head region of the occupant of the motor vehicle, wherein the covering is fastened to two ends of the gas bag approximately at the height of a lower edge region 70 of the gas bag on the side wall wherein, viewed from the side, an ideal connection line forms a

swiveling axis for a pivotal upper region of the covering 30 and at the front side of the covering through two spaced fastenings 34, and wherein a defined weakening 40 is adjacent the pivotal upper region. In regard to Claims 3 and 4, Haig further discloses a side impact protective apparatus 10, wherein one of the two spaced fastenings 34, viewed in the direction of travel, is a frontally positioned fastening of the covering which adjoins an internally positioned door opener of the motor vehicle door while the other fastener 34 is a rear-positioned fastening of the covering 30, which is arranged adjoining the defined weakening 40 of the covering 30. In regard to Claims 5 and 6, Haig further discloses the side impact protective apparatus 10 wherein the weakening 40 is defined on the front side 42 of the covering 30 and runs at least segmentally parallel to the external contour of the covering turned toward the passenger space and is arranged at a slight distance to an arch-like external contour of the covering 30.

4. With regard to new claims 16 and 17, the covering 30 of Haig is a one-piece covering and the pivotal upper region pivots about the swiveling axis during gasbag 14 deployment.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7-9 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haig in view of Nishitake (JP 3-284443). Haig discloses the claimed invention

except for a weakening 40 that is formed by several bore holes arranged at a distance to one another, wherein centers of the bore holes lie on a common, arch-like formed central line, and wherein a connection bar is arranged between two adjoining bore holes. Nishitake, however, teaches a side impact protective device EU with a covering 11 on which a weakening 17a is formed by several bore holes lying on a common arch-like formed central line, wherein a connection bar is arranged between two adjoining bore holes. With regard to claims 8,9,13, and 14, the boreholes of Nishitake may be considered both boreholes and front face weakenings. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to form the weakening 40 in Haig by several bore holes lying on a common arch-like formed central line, wherein a connection bar is arranged between two adjoining bore holes to enable easier deployment of the side impact protective apparatus.

7. Claims 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haig in view of Tajima et al (6,682,093). Haig discloses the claimed invention except for a weakening 40 that is formed by openings. Tajima et al, however, teaches a side impact protective device M with a sheet 25 on which a weakening 27 is formed by openings 28. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to form the weakening 40 in Haig by the openings 28 from Tajima et al to enable easier deployment of the side impact protective apparatus.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haig in view of Marjanski et al (5,669,627). Haig discloses the claimed invention except for a superimposed protective cap that covers the rear-positioned face fastening 34 and the

weakening 40 of the covering 30. Marjanski et al teaches a side impact airbag module with an end cap 28 to close off either end of the airbag cover 10. Therefore, it would have been obvious to one skilled in the art at the time of the invention to have covered the end of the rear-positioned face fastening 34 and the weakening 40 of the cover 30 with the end cap 28 of Marjanski et al in order to close off and protect the otherwise exposed fastening and weakening.

9. Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haig in view of Tajima et al. Haig discloses the claimed invention except for an embedded net-like fabric insert that is provided inside a carrier element of the covering 30 at least adjoining the side impact protective apparatus 10. Tajima et al, however, teaches an air bag device with M an embedded fabric insert 125 formed by a woven cloth 125a with a lattice pattern. Therefore, it would have been obvious to one of ordinary skill in the art to have incorporated the net-like fabric insert 125 of Tajima et al into the side impact protective device 10 of Haig in order to easily and more controllably contain the undeployed gas bag.

Response to Arguments

10. Applicant's arguments filed 8/15/2006 have been fully considered but they are not persuasive. Applicant argues that the Haig reference does not disclose a side impact protective apparatus comprising a covering fastened to two ends of a gas bag approximately at the height of a lower edge region of the gas bag on a side wall, a swiveling axis for a pivotal upper region of the covering formed by an ideal connection line as particularly specified, and a defined weakening provided adjacent the pivotal

upper region. Examiner respectfully disagrees with Applicant's arguments, noting that the gas bag of Haig 14 is fastened at the height of the lower edge of said gas bag 14 and at its right and left ends to the covering 30 through fasteners 34, wherein a swiveling axis for a pivotal upper region of the covering 30 is in fact formed by an ideal connection line formed by the fastenings 34 as can be seen in Fig. 8. Examiner would like to further note with regard to this argument that a defined weakening 40 is provided adjacent the pivotal upper region of the covering 30 as claim 1 of this particular application defines.

11. Applicant further argues that the secondary reference of Nishitake does not fully disclose the structure of the claimed invention. Examiner responds, however, that though the secondary reference does not disclose the entire structure of the claimed invention, Nishitake does teach the missing limitation of a weakening 17a that is formed by several bore holes arranged at a distance to one another, wherein centers of the bore holes lie on a common, arch-like formed central line, and wherein a connection bar is arranged between two adjoining bore holes.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

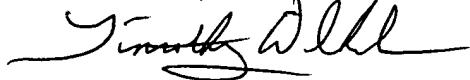
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Wilhelm whose telephone number is 571-272-6980. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Timothy Wilhelm
Examiner, United States Patent and Trademark Office



PAUL N. DICKSON 9/15/06
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600